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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,638	01/26/2004	Russell A. Budd	YOR920000326US2	9109
7590 Ryan, Mason & Lewis, LLP 90 Forest Avenue Locust Valley, NY 11560				
10/03/2008				
EXAMINER				
BECK, ALEXANDER S				
ART UNIT		PAPER NUMBER		
2629				
MAIL DATE		DELIVERY MODE		
10/03/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/764,638

**Applicant(s)**

BUDD ET AL.

**Examiner**

ALEXANDER S. BECK

**Art Unit**

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-893)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Acknowledgment is made of the amendment filed Jun. 20, 2008, in which: claim 1 is amended; claim 3 is cancelled; and the rejection of the claims is traversed. Claim 1 is currently pending and an Office action on the merits follows.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,034,653 to Robertson et al. ("Robertson") in view of U.S. Patent No. 6,452,572 to Fan et al. ("Fan").

As to claim 1, Robertson discloses a compact head mounted virtual display unit in Figure 15, the unit comprising: a microdisplay; an optical system for directing an image signal for viewing by a user, the image signal being generated in accordance with the microdisplay; an optical system mounting structure for supporting the optical system

within the field of view of only a single eye of the user; and a housing to substantially contain at least the optical system, wherein the image signal is viewed by the user together with background light entering the optical system (Robertson, col. 8, ll. 10-25).

Robertson does not disclose expressly a slidable opaque light shield, integrated within the housing and having an open position and a closed position, wherein the opaque light shield is slidable along a length of an exterior wall of the housing and slidably positioned with respect to the optical system such that, in the open position, the image signal is viewed by the user together with background light entering the optical system, and in the closed position, the image signal is viewed by the user with background light blocked from entering the optical system and thereby eliminated, as claimed.

Fan discloses a compact head mounted image display unit in Figures 49 and 54, the unit comprising: a microdisplay, an optical system for directing an image signal for viewing by a user, a housing to substantially contain at least the optical system, and a slidable light shield, integrated within the housing and having an open position and a closed position, wherein the opaque light shield is slidable along a length of an exterior wall of the housing and slidably positioned with respect to the optical system (Fan, col. 22, ll. 50-61; see also col. 23, ll. 40-46). The opaque slidable light shield serves to protect the optical system components from damage (Fan, col. 23, ll. 44-46).

Although Fan discloses the opaque light shield being provided on the front-end of the optical system (i.e., the end closest to the user's eye) (Fan, Fig. 54), examiner respectfully submits that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the compact head mounted virtual image display unit of Robertson such that a slidable opaque light shield was provided, as taught by Fan, but at the back-end of the optical system (i.e., the end farthest from the user's eye). As one of ordinary skill in the art would appreciate, the suggestion/motivation for doing so would have been to protect the back-end of the transmissive optical display

system since the back-end of the optical system in Robertson is suspect to mechanical damage when exposed, which is the problem solved Fan (Fan, col. 23, ll. 44-46).

Thus, Robertson as modified by Fan teaches/suggests that when the slidable opaque light shield (at the back-end of the optical system) is in the open position, the image signal is viewed by the user together with background light entering the optical system (Robertson, col. 8, ll. 10-25), as claimed. Moreover, examiner respectfully submits that Robertson as modified by Fan teaches/suggests that when the slidable opaque light shield (at the back-end of the optical system) is in the closed position, the image signal is viewed by the user with background light blocked from entering the optical system and thereby eliminated, as claimed, since Robertson suggests that the image signal may be created and thus viewed by an internal light source (Robertson, col. 8, ll. 10-25). Thus, because the generation of the image signal to be viewed by the user is independent of background light entering the optical system in Robertson, examiner respectfully submits that there is a reasonable expectation that when the slidable opaque light shield (at the back-end of the optical system) is in the closed position, the image signal is viewed by the user with background light blocked from entering the optical system and thereby eliminated.

#### ***Response to Arguments***

5. Applicant's arguments filed Jun. 20, 2008, with respect to Robertson and Fan have been fully considered but they are not persuasive. Examiner respectfully submits that applicant's arguments pertaining to Robertson and Fan have been addressed in the rejection of claim 1 above.

#### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDER S. BECK whose telephone number is (571)272-7765. The examiner can normally be reached on M-F, 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sumati Lefkowitz can be reached on (571) 272-3638. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sumati Lefkowitz/  
Supervisory Patent Examiner, Art Unit 2629

asb